

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

TRENA MAY BATES,

Plaintiff,

v.

CIVIL ACTION NO. 1:13CV122  
(Judge Keeley)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

ORDER ADOPTING THE MAGISTRATE JUDGE'S REPORT  
AND RECOMMENDATION, REMANDING THE CASE PURSUANT  
TO SENTENCE FOUR OF 42 U.S.C. § 405(G), AND DISMISSING  
THE CASE WITH PREJUDICE FROM THIS COURT'S ACTIVE DOCKET

Pursuant to 28 U.S.C. §636(b)(1)(B), Rule 72(b), Federal Rules of Civil Procedure and Local Court Rule 4.01(d), on April 18, 2013, the Court referred this Social Security action to United States Magistrate Judge John S. Kaull with directions to submit proposed findings of fact and a recommendation for disposition.

On February 4, 2014, Magistrate Judge Kaull filed his Report and Recommendation ("R&R") (dkt. no. 17), and directed the parties, in accordance with 28 U.S.C. §636(b)(1) and Rule 6(e), Fed. R. Civ. P., to file any written objections with the Clerk of Court within fourteen (14) days after being served with a copy of the R&R. He further directed the parties that failure to file objections would

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result in a waiver of the right to appeal from the judgment of this Court. The parties did not file any objections.

Upon consideration of Magistrate Judge Kaull's recommendation and having received no written objections,<sup>1</sup> the Court accepts and approves the R&R and **ORDERS** that this civil action be disposed of in accordance with the recommendation of the magistrate judge. Accordingly,

1. Bates' motion for Summary Judgment (dkt. no. 12) is **GRANTED-IN-PART**;
2. The Commissioner's motion for Summary Judgment (dkt. no. 14) is **DENIED**;
3. The case is **REMANDED** to the Commissioner pursuant to sentence four of 42 U.S.C. §§ 405(g) for consideration pursuant to the recommendations contained in the R&R; and
4. This civil action is **DISMISSED WITH PREJUDICE** and **RETIRED** from the docket of this Court.

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<sup>1</sup> The parties' failure to object to the Report and Recommendation not only waives their appellate rights in this matter, but also relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4<sup>th</sup> Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

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Pursuant to Fed.R.Civ.P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of this Order to counsel of record.

DATED: March 7, 2014

/s/ Irene M. Keeley

IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE